

## The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THE INSTITUTE OF CETACEAN  
RESEARCH, a Japanese research  
foundation; KYODO SENPAKU  
KAISHA, LTD., a Japanese corporation;  
TOMOYUKI OGAWA, an individual; and  
TOSHIYUKI MIURA, an individual,

## Plaintiffs.

V.

SEA SHEPHERD CONSERVATION SOCIETY, an Oregon nonprofit corporation, and PAUL WATSON, an individual,

## Defendants.

No. C11-2043JLR

## THIRD AMENDED JOINT STATUS REPORT AND DISCOVERY PLAN

SEA SHEPHERD CONSERVATION  
SOCIETY, an Oregon nonprofit  
corporation,

**Counterplaintiff,**

V.

THE INSTITUTE OF CETACEAN  
RESEARCH, a Japanese research  
foundation; KYODO SENPAKU  
KAISHA, LTD., a Japanese corporation;  
and HIROYUKI KOMURA, an individual,

## Counterdefendants.

1 Pursuant to the Court's Order Staying Case (Dkt. No. 181) and Minute Order  
 2 (Dkt. No. 212), the parties to this action, by the undersigned counsel, submit this Third Amended  
 3 Joint Status Report and Discovery Plan. Because Plaintiffs and Defendants have substantially  
 4 different views on various matters, this report will set forth separately the parties' respective  
 5 positions.

6 **1. Statement of the Nature of the Case:**

7 **PLAINTIFFS' RESPONSE:**

8 On December 19, 2014, the Ninth Circuit issued its Opinion on a motion for  
 9 contempt (9th Cir. Dkt. No. 360) ("Opinion"), holding Defendants in this action (Sea Shepherd  
 10 Conservation Society ("SSCS") and Paul Watson ("Watson")) and a number of (now former)  
 11 directors of SSCS ("Directors")<sup>1</sup> in contempt for violations of the injunction it issued  
 12 December 17, 2012 (9th Cir. Dkt. No. 31) ("Injunction"). The Ninth Circuit issued an order to  
 13 Appellate Commissioner Peter Shaw to determine the amount that should be awarded to  
 14 Plaintiffs for their costs and attorney fees incurred in connection with the contempt proceedings,  
 15 as well as in "compensation for any actual damages suffered and resources (such as fuel and  
 16 personnel costs) that were wasted as a result" of the contempt. Order, 9th Cir. Dkt. No. 362, at 2.

17 In its Opinion, the Ninth Circuit also stated:

18 The Plaintiffs' requests for coercive sanctions and an order to compel  
 19 compliance should be directed to the district court. Our opinion of February 25,  
 20 2013, as amended May 24, 2013, provided that the preliminary injunction "will  
 21 remain in effect until further order of this court." *Inst. of Cetacean Research*,  
 22 725 F.3d at 947. However, we issued our mandate on June 7, 2013, at which time  
 23 the district court assumed supervision over the Defendants' present compliance  
 24 with the preliminary injunction. While we retain jurisdiction to order remedial  
 25 relief for acts of contempt that took place prior to the issuance of our mandate,  
 26 because these coercive sanctions are forward-looking, we believe that policing the  
 Defendants' continuing compliance with the preliminary injunction is better left to  
 the district court, subject to our review on appeal. This panel retains jurisdiction  
 over all appeals in this case.

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<sup>1</sup> Lani Blazier, Marnie Gaede, Bob Talbot, Robert Wintner, Ben Zuckerman, and Peter Rieman were directors of  
 SSCS and were parties to the contempt proceedings.

1      Opinion, Dkt. No. 360, at 49.

2              As a result of this direction from the Ninth Circuit, this Court now assumes  
 3 jurisdiction to address Plaintiffs' request for coercive sanctions against Defendants and the  
 4 Directors. As noted by the Ninth Circuit, those coercive sanctions could include, as Plaintiffs  
 5 requested, "bonded, suspended sanctions in the amount of \$2 million or such amount the court  
 6 deems appropriate; and . . . an order directing that the Defendants may purge themselves of  
 7 contempt by seeking in good faith to revoke their grants of property to Sea Shepherd entities."  
 8      Opinion, Dkt. No. 360, at 48. In this respect, on March 5, 2015, all Plaintiffs other than  
 9 Toshiyuki Miura<sup>2</sup> filed their motion to lift stay and for remedial sanctions for contempt  
 10 ("Motion"). Dkt. No. 214.

11              Plaintiffs believe the current stay of this action should be lifted so the Court can  
 12 (1) issue appropriate coercive sanction(s) as requested in the Motion in order to ensure the  
 13 preliminary injunction issued by the Ninth Circuit is observed in the future, and (2) allow  
 14 Plaintiffs' claims for a permanent injunction and SSCS's counterclaim regarding the ADY GIL  
 15 collision to proceed to resolution.

16              Plaintiffs further believe that the Directors, who were held liable for contempt, are  
 17 parties to this proceeding to the extent of coercive sanctions for contempt. Plaintiffs' counsel has  
 18 notified Directors' counsel of this position, and Directors' counsel (listed on the certificate of  
 19 service) is being served with this joint status report and has been served with the Motion.

20              As noted below, Defendants seek an "immediate" status conference with the  
 21 Court to determine how to proceed with the Motion, among other things. Plaintiffs agree that an  
 22 immediate status conference could be useful, unless the Court believes that it would be  
 23 preferable to receive full briefing of the Motion before conducting a status conference. If so,  
 24 Plaintiffs suggest the Motion remain noted for March 27, 2015, and it be fully briefed. The  
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26      <sup>2</sup> Plaintiff Toshiyuki Miura is now retired and will be dropped as a plaintiff when a first amended complaint is filed.

1 Court could then use the noting date to conduct a status conference. Plaintiffs believe that  
2 counsel for the Directors should be ordered to attend any status conference pertaining to the  
3 Motion.

4 Finally, Plaintiffs believe that a conference with the Court would be appropriate  
5 to determine, among other things, (i) whether the Injunction entered by the Ninth Circuit will be  
6 stipulated to as permanent; (ii) to what extent Defendants will stipulate to facts to expedite trial  
7 on the merits; and (iii) whether the case should be bifurcated between Plaintiffs' claims and  
8 SSCS's counterclaim.

9 DEFENDANTS' RESPONSE:

10 Defendants agree that the stay of this action should be lifted so that the Court may  
11 consider Plaintiffs' request for a permanent injunction and Defendants' counterclaims, including  
12 substantial additional counterclaims that will be asserted in Defendants' amended pleadings.

13 Defendants agree that in its December 19, 2014 ruling, the Ninth Circuit directed  
14 that "Plaintiffs' requests for coercive sanctions and an order to compel compliance should be  
15 directed to the district court," because, unlike the request for fees and damages, over which it  
16 retained jurisdiction, the requests for coercive sanctions are "forward-looking." 9th Cir. Dkt.  
17 No. 360 at 49. Until Plaintiffs filed their Motion to Lift Stay and for Remedial Sanctions for  
18 Contempt on March 5, 2015 (Dkt. 214) ("Motion for Remedial Sanctions"), they had not  
19 specified what they were requesting in terms of coercive sanctions from this Court, and the  
20 nature of their requests to the Ninth Circuit have changed dramatically over time. In regard to a  
21 similar request for coercive sanctions, the Appellate Commissioner found that Plaintiffs had  
22 "failed to prove" the factual basis for such a request, and had provided "no substantial legal  
23 support" for the steps that they now urge Defendants must take to comply with the injunction.  
24 9th Cir. Dkt. 314 at 78. Plaintiffs' Motion for Remedial Sanctions is thus clearly not ripe for  
25 resolution on the briefing, and as discussed below, it implicates many substantive issues that will  
26 be adjudicated during the litigation over the permanent injunction. Defendants believe Plaintiffs'

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1 Motion for Remedial Sanctions should be adjourned, and that Plaintiffs should incorporate their  
2 request for remedial sanctions into an amended complaint, so that it can be adjudicated along  
3 with the litigation over the permanent injunction.

4 Plaintiffs indicate that they “believe” that six former volunteer directors of the  
5 board of SSCS “are parties to this proceeding.” They are not. They were named as alleged  
6 contemnors in the contempt proceeding instituted by Plaintiffs in the Ninth Circuit, which was  
7 adjudicated by that Court. The Ninth Circuit has re-referred that contempt proceeding to the  
8 Ninth Circuit’s Appellate Commissioner to determine, among other things, whether the former  
9 volunteer directors should be liable for any attorney’s fees, costs, or damages claimed by  
10 Plaintiffs in connection with the contempt proceeding. The Ninth Circuit’s ruling did not add the  
11 former directors as parties to this proceeding, and Plaintiffs have not joined them. It is hard to  
12 imagine that there will be any basis on which to join the former directors as parties. None of  
13 them has ever personally participated in any Southern Ocean anti-whaling campaign. The Ninth  
14 Circuit found them in contempt solely based on their service on the SSCS board of directors.  
15 Now that none of them remains on the SSCS board, they have no link to the permanent  
16 injunction proceeding, and no ability or authority to ensure Defendants’ compliance with the  
17 injunction. Because the former directors are not parties to this proceeding, Defendants believe  
18 that counsel for the directors should not be ordered to attend any status conference in the case.

19 Defendants will not stipulate to the entry of a permanent injunction, and it is  
20 premature to consider whether or not it is appropriate to stipulate to any facts. Defendants do not  
21 believe this case should be bifurcated as between Plaintiffs’ claims and Defendants’  
22 counterclaims, as discussed further below.

23 Defendants believe an immediate status conference with the Court is necessary, so  
24 that the Court can set deadlines that will allow this action to proceed promptly to the discovery  
25 stage, and so that it can determine the process for adjudicating Plaintiffs’ Motion for Remedial  
26 Sanctions, against which Defendants must otherwise file an opposition brief by March 23, 2015.

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1 The Motion for Remedial Sanctions encompasses disputed factual questions as to which no  
2 discovery has been conducted, and implicates substantive issues that are fundamental to the  
3 underlying action, such as the terms of any permanent injunction and of any counter-injunction,  
4 as discussed below. As a result, Defendants suggest that briefing on the motion at this time  
5 would not be efficient or helpful to the Court, and that Plaintiffs' request for coercive sanctions  
6 should instead be incorporated into Plaintiffs' complaint.

7 **2. Alternative Dispute Resolution:**

8 PLAINTIFFS' RESPONSE: Plaintiffs do not believe ADR would be worthwhile.

9 DEFENDANTS' RESPONSE: Defendants are willing to consider engaging in  
10 ADR at an appropriate time.

11 **3. Timing of Alternative Dispute Resolution:**

12 PLAINTIFFS' RESPONSE: Because Plaintiffs do not believe ADR would be  
13 worthwhile, Plaintiffs take no position as to timing of ADR.

14 DEFENDANTS' RESPONSE: Defendants do not believe ADR would be  
15 productive at this time, but are willing to consider engaging in ADR at an appropriate time.

16 **4. Deadline for Joinder of Additional Parties or Claims:**

17 PLAINTIFFS' RESPONSE: Plaintiffs believe the date for joinder of additional  
18 parties or claims should be April 6, 2015.

19 DEFENDANTS' RESPONSE: Defendants agree the deadline for joinder should  
20 be April 6, 2015, and for the reasons discussed below, believe Plaintiffs should also be required  
21 to file an amended complaint by that date, which would include their request for coercive  
22 sanctions.

23 Plaintiffs filed their complaint in this matter on December 8, 2011, and filed a  
24 motion for a preliminary injunction on December 14, 2011. Dkts. 1, 13. On March 19, 2012,  
25 Judge Richard Jones denied Plaintiffs' motion for a preliminary injunction, and granted in part  
26 and denied in part Defendants' motion to dismiss. Dkts. 95, 96. On April 26, 2012, Judge Jones

1 issued a Minute Order Setting Trial Date and Related Dates, which set August 15, 2012 as the  
2 deadline for the joinder of additional parties, and March 20, 2013 as the deadline for amending  
3 pleadings. Dkt. 112. The Ninth Circuit issued an injunction pending appeal on December 17,  
4 2012 (Dkt. 118), and on February 1, 2013, Judge Jones stayed this action and vacated the case  
5 deadlines. Dkt. 131. On February 25, 2013, the Ninth Circuit issued an opinion (which was  
6 amended on May 24, 2013) that reversed Judge Jones's denial of Plaintiffs' motion for a  
7 preliminary injunction and the dismissal of their piracy claims, but did not make a ruling  
8 regarding Judge Jones's dismissal of Plaintiffs' safe navigation claims. Dkts. 135, 148. On  
9 June 7, 2013, the Ninth Circuit issued a mandate effectuating this judgment. Dkt. 150. On  
10 April 28, 2014, this Court ordered the stay in this action to remain in place, pending resolution of  
11 the contempt proceedings still being conducted in the Ninth Circuit. Dkt. 181. The Ninth  
12 Circuit issued an opinion and order on Plaintiffs' motion for contempt on December 19, 2014.  
13 The Ninth Circuit declined to issue a mandate effectuating this order, stating that the mandate  
14 had already been issued on June 7, 2013. Dkt. 211.

15 Given the passage of time and changes in factual circumstances, the rulings by  
16 Judge Jones, the rulings by the Ninth Circuit, the extensive litigation in the Ninth Circuit over the  
17 issue of contempt, and Plaintiffs' addition of claims through their Motion for Remedial  
18 Sanctions, Defendants believe it would streamline and focus these proceedings if Plaintiffs were  
19 required to amend their December 8, 2011 complaint to offer a more definite statement of the  
20 claims on which they now wish to proceed. Defendants propose that Plaintiffs' deadline to  
21 amend the complaint (including the addition of their request for coercive sanctions) and join  
22 additional parties should be April 6, 2015. In order to expedite the discovery process,  
23 Defendants propose that they file amended counterclaims by April 13, 2015. Defendants  
24 propose that they answer and/or move to dismiss the amended complaint by May 11, 2015.

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1           **5. Proposed Discovery Plan:**

2           **A. FRCP 26(f) Conference and Initial Disclosures:**

3           PLAINTIFFS' RESPONSE: Due to the discovery previously conducted in this  
4 case (to a limited extent) and the contempt proceeding, and due to the Ninth Circuit's Opinion,  
5 Plaintiffs believe initial disclosures and an FRCP 26(f) conference are unnecessary.

6           DEFENDANTS' RESPONSE: Only limited discovery was previously conducted  
7 in this case, and discovery in the contempt proceeding did not address many of the issues  
8 relevant to consideration of the requested permanent injunction and the counterclaims that will  
9 be asserted in Defendants' amended pleadings. Defendants believe that initial disclosures should  
10 be required, and a FRCP 26(f) conference should be held, after the deadline for amending  
11 pleadings, and propose a date of May 18, 2015.

12           **B. Scope of Discovery:**

13           PLAINTIFFS' RESPONSE: Assuming that Defendants will not stipulate to a  
14 permanent injunction or to particular facts, then the scope of discovery should cover all issues  
15 raised by the complaint (or any amended complaint) and Defendants' defenses. Discovery may  
16 also be necessary in connection with assessing coercive sanctions as a remedy for contempt.

17           Discovery related to the counterclaim should be limited as discussed below.

18           DEFENDANTS' RESPONSE: Defendants will not stipulate to a permanent  
19 injunction, and it is premature to discuss whether it may be appropriate to stipulate to any  
20 particular facts. The scope of discovery should cover all issues raised by the amended complaint  
21 and amended defenses and counterclaims, and Plaintiffs' request for coercive sanctions. Further  
22 statements regarding the scope of discovery are premature.

23           **C. Scope and Limitations of Discovery:**

24           PLAINTIFFS' RESPONSE: Discovery involving the counterclaim should be  
25 stayed for two reasons.

1                   First, Plaintiffs understand that arbitration is occurring February 16-20, 2015,  
 2 between Ady Gil and Defendants where the question of whether Defendants intentionally  
 3 scuttled the ADY GIL will be decided. That arbitration arises in the case of *Ady Gil et al. v.*  
 4 *Sea Shepherd Conservation Soc'y et al.*, No. 2:13-cv-00657-GW-PLA (C.D. Cal. filed Jan. 30,  
 5 2013). If the arbitration results in a finding that Defendants intentionally scuttled the ADY GIL,  
 6 that will likely affect liability or damages in this action. An arbitration decision is not likely  
 7 before the end of April 2015.

8                   The other reason a stay of discovery as to the counterclaim should occur is  
 9 because it will be costly (entailing discovery from witnesses located in New Zealand, Japan, and  
 10 around the United States) and perhaps unnecessary. It may be unnecessary due to the arbitration  
 11 discussed above but also due to a defense based on the statute of limitations, an issue Plaintiffs  
 12 intend to present by way of a partial summary judgment motion. In another action, now  
 13 dismissed,<sup>3</sup> Plaintiffs and Defendants briefed the question of whether the counterclaim is barred  
 14 by the International Convention for the Unification of Certain Rules of Law Respecting  
 15 Collisions Between Vessels, signed at Brussels, Sept. 23, 1910 ("Brussels Convention")  
 16 [1910] UKTS 4\_1913 (Cd. 6677) (entered into force Mar. 1, 1913),  
 17 [http://www.bailii.org/uk/other/UKTS/1910/4\\_1913.html](http://www.bailii.org/uk/other/UKTS/1910/4_1913.html). The Brussels Convention provides that  
 18 "[a]ctions for the recovery of damages are barred after an interval of two years from the date of  
 19 the casualty." Brussels Convention, art. 7. The collision occurred on January 6, 2010 (Dkt.  
 20 No. 94, at 17:2), and the counterclaim was filed in this action on March 16, 2012. Because the  
 21 issue has already been briefed, it would be easy to promptly present it to the Court by way of a  
 22 motion for partial summary judgment to be filed by Plaintiffs. If the Court determines that the  
 23 counterclaim is barred by the statute of limitations, costly discovery on the counterclaim would  
 24 be avoided.

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<sup>3</sup> *Sea Shepherd Conservation Soc'y v. Inst. of Cetacean Research et al.*, No. 3:13-cv-00213-MO (D. Or. filed Feb. 7,  
 2013).

1                   DEFENDANTS' RESPONSE: Defendants will file substantial additional  
 2 counterclaims in their amended pleadings, which will moot Plaintiffs' contentions regarding the  
 3 bifurcation of the current counterclaim. Among other allegations, Defendants will bring claims  
 4 against Plaintiffs based on their regular use of violent and dangerous strategies over the past  
 5 several years to protect their hunting of whales in the Southern Ocean – a hunt that was declared  
 6 illegal last year by the International Court of Justice. In addition to seeking damages for past  
 7 activities, as in the current counterclaim, Defendants' amended counterclaims will also seek to  
 8 have an injunction imposed against Plaintiffs to constrain their future activities. As the amended  
 9 pleadings will thus make apparent, there are common issues related to Plaintiffs' claims and  
 10 Defendants' counterclaims, such that it will serve the interests of both justice and efficiency to  
 11 adjudicate both at the same time.

12                   The adjudication over whether to enjoin Plaintiffs' violent and illegal activities  
 13 will also impact the consideration of Plaintiffs' request for coercive sanctions, making it  
 14 necessary for those questions to be adjudicated at the same time. Furthermore, the terms of any  
 15 injunction against Defendants should be clarified before any such coercive sanctions are  
 16 considered. Although more than three years have passed since Plaintiffs instituted this action,  
 17 Defendants remain under a *temporary* injunction, while the action for a permanent injunction has  
 18 been stayed in accordance with Plaintiffs' request, and thus has not proceeded past the initial  
 19 pleadings stage. In finding contempt, the Ninth Circuit acknowledged that SSCS had *not*  
 20 violated the express terms of the preliminary injunction, which requires that Defendants refrain  
 21 from approaching Plaintiffs' vessels closer than 500 yards in the Southern Ocean, attacking  
 22 them, or interfering with their safe navigation. Dkt. 118. The Ninth Circuit conceded that SSCS  
 23 had done none of these things, but rather found that it was in contempt of the unwritten "spirit"  
 24 of the injunction. (9th Cir. Dkt. 360 at 36-37). Similarly, Plaintiffs do not seek to enforce any  
 25 express terms of the injunction through their Motion for Remedial Sanctions, but attempt to  
 26 further broaden the scope of the temporary injunction. For example, they vaguely claim that

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1 coercive sanctions should be imposed to prevent Defendants from “encourag[ing]” actions by  
2 third parties,<sup>4</sup> and to require SSCS to seek possession of vessels and equipment that were granted  
3 to other entities up to four years ago.

4                   After more than three years of litigation, and a contempt finding based upon  
5 requirements that are not encompassed within the language of the temporary injunction,  
6 Defendants are entitled to an adjudication of whether a permanent injunction should be imposed,  
7 and if so, what its terms should be, and whether it should also include prohibitions on Plaintiffs’  
8 conduct. Without express terms that both Defendants and Plaintiffs can follow, coercive  
9 sanctions would be unfair, one-sided, and premature. Defendants should not continue to face  
10 uncertain liability based on the continual reinterpretation of unexpressed terms of the preliminary  
11 injunction, which leaves their potential liability subject to speculation and continuous litigation.  
12 For these reasons, Defendants believe that Plaintiffs’ request for coercive sanctions should be  
13 considered as a part of their claims in the underlying action, and adjudicated along with  
14 Defendants’ counterclaims.

15                   **D.      Discovery Management:**

16                   **PLAINTIFFS' AND DEFENDANTS' RESPONSE:** See above.

17                   **E.      Discovery Orders:**

18                   **PLAINTIFFS' RESPONSE:** On February 1, 2013, the Court stayed discovery,  
19 pending the Ninth Circuit's decision on Plaintiffs' appeal of denial of their motion for a  
20 preliminary injunction, but allowed discovery as to compliance with the Ninth Circuit's  
21 Injunction. Dkt. No. 131. The Court also terminated all existing discovery motions because they  
22 did not deal with compliance with the Injunction. Dkt. No. 131, at 2:1-3. Due to changed  
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<sup>4</sup> Plaintiffs do not explain what would constitute such encouragement, leaving open the likelihood that they would  
25 seek sanctions for contempt if Defendants take actions such as speaking out against Plaintiffs' illegal activities in the  
26 Southern Ocean, even while Defendants continue to have no involvement in Southern Ocean whale protection  
campaigns.

1 circumstances since their filing, Plaintiffs believe all existing discovery motions should remain  
2 terminated, with leave to renew as circumstances may warrant.

3 DEFENDANTS' RESPONSE: Defendants agree that all existing discovery  
4 motions should remain terminated, with leave to renew after amended pleadings are filed.

5 **6. Proposed Discovery Deadline:**

6 PLAINTIFFS' RESPONSE: If the Court stays discovery on the counterclaim,  
7 Plaintiffs believe the deadline for completion of discovery on their claims and the coercive  
8 sanctions should be September 30, 2015.

9 DEFENDANTS' RESPONSE: Defendants believe that the Court should lift the  
10 stay as to all of Plaintiffs' claims and Defendants' counterclaims, including for consideration of  
11 Plaintiffs' request for coercive sanctions, such that discovery will proceed immediately as to all  
12 claims following the deadlines for amended pleadings. Because the claims and counterclaims  
13 will implicate broad issues over which there has been no discovery up to this point, Defendants  
14 propose that the discovery deadline for both should be March 1, 2016.

15 **7. Trial Before a United States Magistrate Judge:**

16 PLAINTIFFS' AND DEFENDANTS' RESPONSE:

17 The parties do not consent to referring this matter to a Magistrate Judge.

18 **8. Bifurcation of Case:**

19 PLAINTIFFS' RESPONSE: Plaintiffs believe the first priority is to establish the  
20 appropriate coercive sanction(s) as the remedy for contempt because Plaintiffs expect to resume  
21 Southern Ocean research operations that entail lethal take beginning at the end of 2015 or early  
22 2016. The Southern Ocean "season" is approximately three months—January to March of each  
23 year—and Plaintiffs' vessels usually leave Japan in December or early January in order to reach  
24 the Southern Ocean by the beginning of the season. If Defendants are to be ordered to take steps  
25 to revoke the grants of ships and other equipment used to commit violations of the Injunction,  
26 that process needs to begin soon to be effective before the next season.

1                   In addition, for the reasons discussed above, the counterclaim should be  
2 bifurcated and put on a separate and later track to facilitate its efficient resolution.

3                   DEFENDANTS' RESPONSE: As discussed above, Plaintiffs' argument  
4 regarding the bifurcation of Defendants' current counterclaim will be rendered moot by  
5 Defendants' amended counterclaims. It is Defendants' belief that Plaintiffs' amended claims  
6 (including the request for coercive sanctions) and Defendants' amended counterclaims will  
7 present closely related issues which should be decided at the same trial, and they thus oppose any  
8 bifurcation of those claims.

9                   **9. Dispensing with Pretrial Statements and Orders:**

10                   PLAINTIFFS' AND DEFENDANTS' RESPONSE:

11                   The requirements of Local Civil Rule 16 should be observed in this case.

12                   **10. Other Suggestions to Shorten or Simplify Case:**

13                   PLAINTIFFS' AND DEFENDANTS' RESPONSE: Other than the above, none at  
14 this time.

15                   **11. Trial:**

16                   PLAINTIFFS' RESPONSE: Plaintiffs believe the case should be tried after  
17 April 2016. The Ninth Circuit's Injunction that remains in place, together with Defendants'  
18 efforts to exercise control over the ships that committed contempt (as part of Plaintiffs' request  
19 for remedial contempt sanctions), hopefully will suffice to protect Plaintiffs over the 2015-2016  
20 season.

21                   DEFENDANTS' RESPONSE: Defendants believe that the case should be tried  
22 after July 2016.

23                   **12. Jury/Non-Jury:**

24                   PLAINTIFFS' RESPONSE: Plaintiffs have not requested a jury trial.

25                   DEFENDANTS' RESPONSE: Defendants have requested a jury trial.

1           **13. Length of Trial:**

2           **PLAINTIFFS' RESPONSE:** Depending on what facts may be stipulated to, a  
3 very preliminary estimate of the length of trial is two to three weeks.

4           **DEFENDANTS' RESPONSE:** Defendants agree that, as a preliminary estimate,  
5 the length of trial will be two to three weeks.

6           **14. Names, Addresses, and Telephone Numbers of Trial Counsel:**

7           **A. Plaintiffs' Counsel:**

8           John F. Neupert, P.C. #39883  
9           E-mail: [john.neupert@millernash.com](mailto:john.neupert@millernash.com)

10           M. Christie Helmer #41171 (*admitted pro hac vice*)  
11           E-mail: [chris.helmer@millernash.com](mailto:chris.helmer@millernash.com)

12           MILLER NASH GRAHAM & DUNN LLP  
13           111 S.W. Fifth Avenue, Suite 3400  
14           Portland, Oregon 97204  
15           Telephone: (503) 224-5858 or (206) 624-8300

16           **B. Counsel for Defendant Sea Shepherd Conservation Society:**

17           Douglas W. Greene, WSBA# 22844  
18           E-mail: [greened@lanepowell.com](mailto:greened@lanepowell.com)

19           Claire Loebs Davis, WSBA# 39812  
20           E-mail: [davisc@lanepowell.com](mailto:davisc@lanepowell.com)

21           Kristin Beneski, WSBA# 45478  
22           E-mail: [beneskik@lanepowell.com](mailto:beneskik@lanepowell.com)

23           LANE POWELL PC  
24           1420 Fifth Avenue, Suite 4200  
25           P.O. Box 91302  
26           Seattle, Washington 98111-9402  
Telephone: (206) 223-7000

1                   **C.       Counsel for Defendant Paul Watson:**

2                   Timothy G. Leyh, WSBA# 14853  
3                   E-mail: [timl@calfoharrigan.com](mailto:timl@calfoharrigan.com)

4                   Charles S. Jordan, WSBA# 19206  
5                   E-mail: [chipj@calfoharrigan.com](mailto:chipj@calfoharrigan.com)

6                   Michelle Buhler, WSBA# 16235  
7                   E-mail: [michelleb@calfoharrigan.com](mailto:michelleb@calfoharrigan.com)

8                   CALFO HARRIGAN LEYH & EAKES LLP  
9                   999 Third Avenue, Suite 4400  
10                  Seattle, Washington 98104  
11                  Telephone: (206) 623-1700

12                  **15.   Service:**

13                  PLAINTIFFS' and DEFENDANTS' RESPONSE: All current parties, other than  
14                  counterclaim defendant Hiroyuki Komura, have been served.

15                  **16.   Scheduling Conference:**

16                  PLAINTIFFS' RESPONSE: As noted above at page 3, line 20, through page 4,  
17                  line 3, Plaintiffs request a status conference but note that a status conference may be more  
18                  productive after Plaintiffs' Motion is fully briefed. Otherwise, Plaintiffs have no opposition to an  
19                  immediate status conference.

20                  DEFENDANTS' RESPONSE: For the reasons discussed above, Defendants  
21                  request an immediate conference to discuss scheduling in this case, and believe that briefing on  
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1 the Motion for Remedial Sanctions in advance of such a status conference would be not be  
2 efficient or helpful to the Court.

3 DATED this 10th day of March, 2015.  
4

5 By: s/ John F. Neupert  
John F. Neupert, P.C. #39883  
6 MILLER NASH GRAHAM & DUNN LLP  
111 S.W. Fifth Avenue, Suite 3400  
Portland, Oregon 97204  
7 Telephone: (503) 224-5858 or (206) 624-8300  
Fax: (503) 224-0155  
8 E-mail: [john.neupert@millernash.com](mailto:john.neupert@millernash.com)  
9 *Of Attorneys for Plaintiffs and for  
Counterdefendants The Institute of Cetacean  
Research and Kyodo Senpaku Kaisha, Ltd.*

10 By: s/ Claire Loebs Davis (with consent)  
Claire Loebs Davis #39812  
11 LANE POWELL PC  
1420 Fifth Avenue, Suite 4200  
P.O. Box 91302  
Seattle, Washington 98111-9402  
12 Telephone: (206) 223-7000  
Fax: (206) 223-7107  
13 E-mail: [davisc@lanepowell.com](mailto:davisc@lanepowell.com)  
14 *Of Attorneys for Defendant/Counterplaintiff  
Sea Shepherd Conservation Society*

15 By: s/ Timothy G. Leyh (with consent)  
16 Timothy G. Leyh #14853  
17 CALFO HARRIGAN LEYH & EAKES LLP  
999 Third Avenue, Suite 4400  
Seattle, Washington 98104  
18 Telephone: (206) 623-1700  
19 Fax: (206) 623-8717  
20 E-mail: [timl@calfoharrigan.com](mailto:timl@calfoharrigan.com)  
21 *Of Attorneys for Defendant Paul Watson*

## CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2015, I electronically filed the foregoing Third Amended Joint Status Report and Discovery Plan with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Douglas W. Greene  
greened@lanepowell.com  
Claire Loebs Davis  
davisc@lanepowell.com  
Kristin Beneski  
beneskik@lanepowell.com  
LANE POWELL PC  
1420 Fifth Avenue, Suite 4200  
P.O. Box 91302  
Seattle, Washington 98111-9402  
*Attorneys for Defendant/Counterplaintiff  
Sea Shepherd Conservation Society*

Timothy G. Leyh  
timl@calfoharrigan.com  
Charles S. Jordan  
chipj@calfoharrigan.com  
Michelle Buhler  
michelleb@calfoharrigan.com  
CALFO HARRIGAN LEYH & EAKES LLP  
999 Third Avenue, Suite 4400  
Seattle, Washington 98104  
*Attorneys for Defendant Paul Watson*

I further certify that on the date indicated above, I served the foregoing document on:

Mr. David F. Taylor  
DFTaylor@perkinscoie.com  
Ms. Kathleen M. O'Sullivan  
KOSullivan@perkinscoie.com  
Mr. Zachary P. Jones  
ZJones@perkinscoie.com  
Perkins Coie LLP  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101-3099  
*Attorneys for Marnie Gaede,  
Ben Zuckerman, Lani Blazier,  
Robert Wintner, and Bob Talbot*

Ms. Kristina S. Bennard  
[kbennard@yarmuth.com](mailto:kbennard@yarmuth.com)  
Ms. Julia D. Woog  
[jwoog@yarmuth.com](mailto:jwoog@yarmuth.com)  
Yarmuth Wilsdon PLLC  
818 Stewart Street, Suite 1400  
Seattle, Washington 98101  
*Attorneys for Peter Rieman*

by the following indicated method or methods:

- First-class mail, postage prepaid.
- Hand-delivery.
- Overnight courier, delivery prepaid.
- E-mail, as a courtesy only.

DATED this 10th day of March, 2015.

By: s/ John F. Neupert  
John F. Neupert, P.C. #39883  
*Of Attorneys for Plaintiffs and for  
Counterdefendants The Institute of Cetacean  
Research and Kyodo Senpaku Kaisha, Ltd.*

**CERTIFICATE OF SERVICE - 2  
(C11-2043JLR)**